

REMARKS

The Examiner's indication of the allowability of Claims 20-25 and 36 is gratefully acknowledged. It is believed that in view of the above claim amendments, that the remainder of the claims under consideration are now allowable. The Examiner is asked to note the minor amendment to Claim 20 to remove a statement of intended use having no bearing on the matter of patentability.

CLAIM REJECTIONS – 35 USC §102

Claims 15, 35 and 37 have been rejected under 35 USC §102(b) as being anticipated by US Patent 3,897,923 to Paepke, et al. The Examiner states that “the patent to Paepke, et al. discloses a tubing device comprising a curvilinear channel (34) disposed therein for receiving a piece of tubing (14) and a means (36) for holding the piece of tubing within the channel, as recited in Claim 15.” The Examiner further states, “Fig. 3 discloses a channel having a cross-section with a greater than semi-circular cross-section. Paepke, et al. does not disclose a tubing as being “intravenous” tubing, however, it has been held that a recitation with respect to the manner in which the claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claim's structural limitations.”

Claim 15 has been amended to clarify the present invention. The limitation to an intravenous tubing has been removed, thereby rendering this part of the rejection moot. Further, the claim now requires the tube support to have at least one substantially planar surface and a channel formed in the at least one substantially planar surface. Paepke, et al. does not have a substantially planar surface instead he has a channel formed in the surface 12 of a torus. Thus, Claim 15 is now allowable over Paepke, et al. Claim 35 has been cancelled rendering the

rejection of Claim 35 as anticipated moot.

Claim 37 has not been amended and is allowable in its present form. Claim 37 is a method claim wherein the preamble is a limiting factor in the claim as opposed to an apparatus claim. Paepke, et al. discloses nothing about the use of its device for transporting a fluid for medical purposes. Paepke, et al. discloses his invention for use with water hoses and other such conveyances (column 1, lines 11-12) such as for use with washing machines (column 1, lines 21-23). Nothing comprising use in a method for transporting a fluid for a medical application is disclosed.

Furthermore, Claim 37 requires the step of “providing a piece of flexible tubing having smooth interior walls,....” Clearly, Paepke shows a corrugated hose 14, wherein curvilinear ribs 36 fit within adjacent pairs of convolutions of the corrugated hose 14 to prevent axial slipping with regard to the shell 12. With this step missing, the claim cannot be held to be anticipated.

With regard to the rejection of Claims 15, 31, 33-35 and 37-41 as being anticipated by US Patent No. 6,113,039 to Riffle, the amendment to Claim 15 requiring the tube support to have at least one substantially planar surface with a channel formed in the at least one substantially planar surface, distinguishes over Riffle. The channel of Riffle is formed in curvilinear surface (15) (column 4, line 28).

With regard to the rejection of Claim 31 as being anticipated by Riffle, Claim 31 has been amended to clarify the invention, and requires two opposing substantially planar surfaces and two channels formed in the opposing substantially planar surfaces. Riffle has two opposing planar surfaces (20) but there is no channel formed in the surfaces (20) and, therefore, Claim 31 is allowable over Riffle.

With regard to the rejection of Claims 33-35 as being anticipated by Riffle, Claims 33 and 34 depend on now allowable Claim 15, and for that reason are allowable.

With regard to the rejection of Claim 35 as being anticipated by Riffle, Claim 35 has been amended to clarify the invention, and requires the structure to hold a piece of flexible intravenous tubing stationary in the channel. This clearly distinguishes over Riffle, as the collar (24) is intended to permit the hose to rotate in the channel (column 4, lines 62-64). Clearly then, Claim 35 is allowable over Riffle.

With regard to the rejection of Claims 37-41 as being anticipated by Riffle, Claim 37 is a method claim defining a method for transporting a fluid for medical applications. No such method is even mentioned in Riffle and, in fact, Riffle is disclosed as being for industrial and commercial applications (column 1, lines 10-11), and more specifically for gasoline hoses (column 1, line 23). There is no method for transporting a fluid for a medical application disclosed anywhere in Riffle. For an anticipation rejection to be proper, everything within the four corners of the claim being rejected must be found in the reference. Clearly, this is not found in the reference, and Claim 37 is allowable.

With regard to the rejection of Claims 38-41 as being anticipated by Riffle, all of Claims 38-41 have been amended to include an intravenous tube as part of the combination claimed. Riffle does not show an intravenous tube and, therefore, cannot anticipate Claims 38-41.

With regard to the rejection of Claims 49-52 as being anticipated by Wirth, US Patent 3,860,978, Claim 51 has been cancelled, and Claim 49 has been amended to require the support member to comprise a rectangular block such as shown at 31B in Figure 24. This is not shown in Wirth and therefore, Claims 49-52 are no longer anticipated by Wirth.

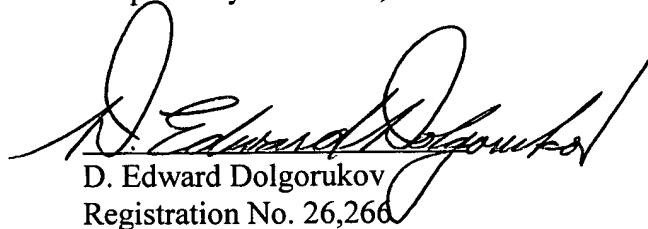
With regard to Claims 49, 50 and 54-58 as being anticipated by US Patent 4,151,864, these claims are allowable for the same reasons discussed in regard to Herr, et al.

CLAIM REJECTIONS 35 USC §103

The Examiner has rejected Claim 32 as being obvious in view of the combination of Paepke, et al. in view of US Patent No. 955,342 to Maxwell. Claim 32 is allowable in view of the amendment of Claim 15, from which Claim 32 ultimately depends. The combination of Paepke, et al. and Maxwell will no longer produce the claimed structure with a curvilinear channel formed in a substantially planar surface. Therefore, Claim 32 is allowable.

In view of the above amendments, and the remarks explanatory thereof, a favorable reconsideration of the present application, and the passing of this case to issue is courteously solicited.

Respectfully submitted,



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